

<sup>2</sup> Judgment was entered against Petitioner (Doc. No. 6) on January 25, 2008. A motion to alter or amend judgment filed within ten days of entry of judgment is properly considered a Rule 59(e) motion regardless of how it is styled; a motion filed later than ten days after entry of judgment is considered a Rule 60 motion. See Dove v. CODESCO, 569 F.2d 807, 809 (4th Cir. 1978). Petitioner's Motion was dated January 31, 2008, and filed on February 5, 2008, so this Court will construe his Motion as a Rule 59 motion.

The Fourth Circuit has held that reconsideration is “an extraordinary remedy” that should be only “sparingly” used. Pacific Insurance Company v. American National Fire Insurance Co. 148 F. 3d 396, 403 (4<sup>th</sup> Cir. 1998). Reconsideration can only be granted on three grounds: (1) to accommodate an intervening change in controlling law; (2) to consider new evidence not previously available; or (3) to correct a clear error of law. See Hutchinson v. Staton, 994 F. 2d 1076 (4<sup>th</sup> Cir. 1993), Xoom, Inc. v. Imageline, Inc., 93 F. Supp. 2d 688 (E.D. Va. 1999).

In the instant motion, Petitioner asserts that this Court disregarded his allegation that Defendant Wilson, his defense attorney, conspired with state actors to deprive him of his civil rights. A broad allegation of conspiracy is simply insufficient to render Defendant Wilson a state actor. Plaintiff also argues that he was deprived of being called before the grand jury proceedings. Likewise, Plaintiff fails to allege any conduct with regard to the grand jury proceedings that would cause the clerk of court or prosecutor to lose their immunity. None of the arguments proffered by Plaintiff in his Motion to Reconsider convince this Court that its earlier order should be vacated and his Motion to Reconsider should be granted.

**IT IS THEREFORE ORDERED that Plaintiff’s Motion for Reconsideration is DENIED.**

Signed: March 10, 2008



Graham C. Mullen  
United States District Judge

